

JOSEPH P. RUSSONIELLO (CSBN 44332)
United States Attorney

BRIAN J. STRETCH (CSBN 163973)
Acting Chief, Criminal Division

SUSAN B. GRAY (CSBN 100374)
Assistant United States Attorney

450 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
Telephone: 415.436.7324
Facsimile: 415.436.6748
Email: Susan.B.Gray@usdoj.gov

Attorneys for United States of America

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
APPROXIMATELY \$31,901 IN UNITED)
STATES CURRENCY,)
)
Defendant.)

No. 07-5166 MHP

CASE MANAGEMENT STATEMENT OF
THE UNITED STATES

CASE MANAGEMENT CONFERENCE

DATE:1/29/08

TIME:4:00P.M.

The United States submits this case management statement. Although Kenneth Wayne Baldwin, Jr. was served with the forfeiture complaint in this action on or about October 24, 2007, he has not filed a claim or an answer which entitles him to appear in this case and claim defendants, nor has he under oath provided good cause for the Court to extend the claim/answer filing deadlines. Rule G. Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions. Because no one has filed a claim or answer as required by Rule G, there is no party with whom the United States can file a joint case management statement:

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A. STATEMENT OF FACTS AND EVENTS UNDERLYING THE ACTION

This is a judicial forfeiture action, as authorized by 21 U.S.C. § 881(a)(6), involving the seizure of defendant approximately \$31,901 in United States Currency (“defendant \$31,901”) which was seized as money furnished or intended to be furnished by a person in exchange for a controlled substance, or money traceable to such an exchange, or money used or intended to be used to facilitate a violation Subchapter I, Chapter 13 of Title 21 United States Code.

On or about May 15, 2007, DEA received detailed information that Kenneth Wayne Baldwin Jr. (“BALDWIN”) and Graci Adia Maldonado (“MALDONADO”) were returning on a round trip return flight from Atlanta, Georgia, to San Francisco International Airport (“SFO”) on Delta Airlines Flight #611 with no checked luggage.

BALDWIN and MALDONADO made the reservations on the day of travel, May 13, 2007, at approximately 12:00 a.m. and paid approximately \$1,764 for the two round trip tickets which were purchased with a Visa credit card. BALDWIN and MALDONADO’s out bound flight from SFO to Atlanta was Delta Airlines flight #1478 which left SFO at 10:35 p.m. on May 13, 2007 and arrived in Atlanta at 6:03 a.m. on May 14, 2007. Originally, BALDWIN and MALDONADO were scheduled to return to SFO on Delta Airlines flight #897 at 8:20 p.m. on May 14, 2007, but they later rescheduled their return flight to #611 which arrived at SFO on May 15, 2007 at approximately 1:15 p.m.

Special Agent (“S/A”) Willie Byrd conducted a check of a commercial database, an NCIC check, a check of DEA indices and a check on employment records with the California Employee Development Department (“EDD”) for BALDWIN and MALDONADO.

A commercial data base search revealed where BALDWIN resided and gave his California drivers license number. An NCIC check revealed that BALDWIN was a black male, 6’4” tall, weighing 190 pounds, with black hair, brown eyes and was born on September 10, 1977. Records further showed he has a criminal history, including a felony conviction in Kansas for possession of Depressants/Stimulants/ Hallucinogenics/Steroid in 2003. A DEA indices check revealed that \$32,000 in United States Currency and a marijuana cigarette were seized on

1 May 7, 2001 from BALDWIN at Nashville International Airport in Nashville, Tennessee and the
2 \$32,000 was later forfeited to the United States. EDD had no records showing that BALDWIN
3 had been employed during the period from 2005 through March of 2007.

4 A commercial data base search revealed where MALDONADO resided and
5 gave her California drivers license number. An NCIC check revealed that MALDONADO was a
6 black female, 5'4" tall, weighing 135 pounds, with brown hair, brown eyes and was born on
7 March 13, 1977. Records further showed she has a criminal history with arrests in California,
8 Georgia and Nevada. EDD had no current reported employment and the last reported wages for
9 her were from June of 2006.

10 After Delta Airline flight #611 arrived at gate C40 at SFO at approximately 1:15
11 p.m., agents from DEA Task Force 2 observed BALDWIN and MALDONADO deplane carrying
12 four pieces of luggage. S/A Willie Byrd and Task Force Agent ("TFA") Steve Maes approached
13 BALDWIN and MALDONADO just after they passed the secured check point and identified
14 themselves. S/A Byrd asked BALDWIN for identification and about the purpose of his travel.
15 BALDWIN responded that he just flew in from Atlanta, Georgia, with MALDONADO because
16 MALDONADO had a court appearance. BALDWIN showed his United States Passport as
17 identification.

18 S/A Byrd informed BALDWIN that he detected the odor of marijuana and asked
19 him if he had any marijuana, illegal drugs or large amounts of United States Currency in his
20 possession. BALDWIN said "no, no, no, you don't smell no marijuana on me." S/A Byrd told
21 BALDWIN that the odor was strong and he either had just smoked marijuana on the plane or had
22 it in his possession. BALDWIN reached into his sock of his right leg and pulled out a small clear
23 plastic bag containing what appeared to be marijuana. BALDWIN gave the marijuana to S/A
24 Byrd and stated "here that's all I have." S/A Byrd asked BALDWIN if he could search his
25 person for more illegal narcotic, and BALDWIN responded "yes." S/A Byrd located a bundle of
26 United States Currency in BALDWIN's right front pants pocket. S/A Byrd asked BALDWIN
27 how much money he had in his possession. BALDWIN responded "ten thousand." During
28 questioning, BALDWIN's hands began to tremble and he began to stutter.

1 S/A Byrd asked BALDWIN if agents could search his luggage. BALDWIN
2 replied "no." S/A Byrd explained to BALDWIN that the agents had enough probable cause to
3 believe the luggage contained narcotics or currency that was possible proceeds of narcotics
4 transactions. S/A Byrd told BALDWIN that agents would bring in a trained narcotics canine to
5 check out the two Louie Vuitton luggage pieces and then obtain a search warrant. BALDWIN
6 then stated "go ahead."

7 S/A Byrd called in TFA Marty Mahon to respond to the location with his certified
8 narcotics detection canine, "Maximus." Maximus alerted to the two Louie Vuitton luggage
9 pieces by barking and scratching. This is an indication to TFA Mahon that the odor of narcotics
10 was emanating from the luggage. "Maximus" is certified to detect heroin, cocaine, marijuana
11 and methamphetamine. TFA Mahon has handled and trained "Maximus" since May of 2001.
12 "Maximus" has successfully located drugs in over 300 times in past cases and training.

13 S/A Byrd asked BALDWIN if agents could search his luggage. BALDWIN
14 replied that he would allow agents to search the luggage and requested that the agents move to a
15 more discreet area due to the high volume of travelers. Agents agreed and moved to a nearby
16 area with fewer travelers.

17 S/A Byrd began by searching the Louie Vuitton computer bag of BALDWIN and
18 located a large bundle of rubber banded United States Currency inside of the main
19 compartment's side pocket. TFA Maes questioned BALDWIN about the source of the currency
20 in his possession. BALDWIN told agents that he is a Rap Producer and made money for doing
21 concerts. TFA Maes asked if BALDWIN had any bank withdrawal or deposit receipts.
22 BALDWIN stated "I don't believe in banks because they rip you off" and explained he kept his
23 money in a safe at home. BALDWIN stated that he planned to use the money to invest in a
24 Smoothie King business.

25 S/A Byrd then searched BALDWIN's Louie Vuitton roller luggage. While
26 searching the luggage, S/A Byrd observed men and women's clothing items. S/A Byrd located
27 two large bundles of United States Currency bound together with rubber bands inside the pockets
28 of a pair of men's cargo pants. TFA Maes commented to BALDWIN that there appeared to be

1 more than ten thousand in currency. BALDWIN stated “yeah, it’s actually twenty thousand.”
 2 TFA Maes reminded BALDWIN that he told agents he had ten thousand dollars in his
 3 possession. BALDWIN stated “nah, I know exactly how much I have. Twenty thousand.”
 4 S/A Byrd continued to search the Louie Vuitton roller luggage and located two
 5 shoe boxes that contained brand new men’s Nike tennis shoes. S/A Byrd found four bundles of
 6 United States Currency, one rubber-banded bundle inside of each shoe.

7 S/A Byrd told BALDWIN that he was going to seize the currency pending further
 8 investigation. At the same time that S/A Byrd was talking to BALDWIN, TFA Maes and S/A
 9 Jay Dial interviewed MALDONADO who informed agents that she was pregnant and engaged to
 10 BALDWIN. MALDONADO consented to a search of her Louie Vuitton purse and a shopping
 11 bag. No illegal drugs or large bundles of currency were found.

12 TFA Mahon had his certified narcotic detection canine, “Maximus,” examine
 13 defendant \$31,901. During a systematic search of the Task Force 2 file room where the currency
 14 had been secreted, “Maximus” located and gave a positive alert to the currency which indicated
 15 the odor of narcotics emanating from it. The denominations of the defendant \$31,901 were: 82 x
 16 \$100 dollar bills; 35 x \$50 dollar bills; 829 x \$20 dollar bills; 385 x \$10 dollar bills; 304 x \$5
 17 dollar bills; 1 x \$1 dollar bill. The packaging and denominations of defendant \$31,901 are
 18 consistent with those used for, or from, the sale of illegal controlled substances.

19 Due to the totality of the circumstances, defendant \$31,901 in United States
 20 currency was seized as money furnished or intended to be furnished by a person in exchange for
 21 a controlled substance, or traceable to such an exchange, or money used or intended to be used to
 22 facilitate a violation of Subchapter I, Chapter 13 of Title 21 United States Code.

23 **B. PRINCIPAL ISSUES**

24 **1. The principal factual issues that the parties dispute are:**

25 **2. The principal legal issues that the parties dispute are:**

26 No one has submitted a timely claim or answer and therefore no factual or legal issues
 27 have been joined.

28 **3. The following issues as to service of process, personal jurisdiction, subject matter**

jurisdiction, or venue remain unresolved.

Kenneth Wayne Baldwin, Jr. was served on or about October 24, 2007 at 1006 Raube Court, Modesto, California via Certified Mail. The signature of Ken Baldwin appears on the Return Receipt.

4. The following parties have not yet been served:

None.

5. Any additional parties that a party intends to join are listed below:

None.

6. Any additional claims that a party intends to add are listed below:

None.

C. ALTERNATIVE DISPUTE RESOLUTION

Not applicable at this time.

D. CONSENT TO JURISDICTION BY A MAGISTRATE JUDGE

Not applicable at this time.

E. DISCLOSURES

Forfeiture actions are exempt from the initial disclosures required in Rule 26, Federal Rules of Civil Procedure.

F. EARLY FILING OF MOTIONS

The United States anticipates it will file a motion for default judgment.

G. DISCOVERY

Not applicable at this time.

H. PRETRIAL AND TRIAL SCHEDULE

Not applicable at this time.

I. DATE OF NEXT CASE MANAGEMENT/STATUS

CONFERENCE _____

J. OTHER MATTERS

None.

K. IDENTIFICATION AND SIGNATURE OF LEAD TRIAL COUNSEL

1 The lead trial counsel for the government has been out on extended medical leave since
2 late November. She is expected to return to work on January 22, 2008, on a limited basis. This
3 case has been reassigned to Assistant United States Attorney Susan B Gray. A substitution of
4 counsel notice was filed on January 16, 2008.

5 Susan B. Gray
6 Assistant United States Attorney
7 Asset Forfeiture Unit
8 450 Golden Gate Avenue, 9th Floor
9 San Francisco, CA 94102
10 415 436 7324

11 No one has submitted a claim or answer for any claimant to the defendant funds.

12 Respectfully submitted,

13 JOSEPH P. RUSSONIELLO
14 United States Attorney

15 Dated: January 16, 2008

16 /S/
17 SUSAN B. GRAY
18 Assistant United States Attorney

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Northern District of California and is a person of such age and discretion to be competent to serve papers. The undersigned further certifies that she caused a copy of

• CASE MANAGEMENT STATEMENT OF THE UNITED STATES
to be served this date via first class mail delivery upon the person(s) below at the place(s) and address(es) which is/are the last known address(es):

Kenneth Wayne Baldwin, Jr.
1006 Raube Court
Modesto, CA 95351

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Executed this 16th day of January, 2008, at San Francisco, California.

/S/
ALICIA CHIN
Paralegal/ AFU